

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN THE MATTER OF:

ROGER OWENS,
HATTIE OWENS,

Debtor(s)

Case No: B-1080315 C-13D

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee ("Trustee") and respectfully objects to confirmation of the Debtors' plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtors filed a petition under Title 11 of the United States Code, Chapter 13, on February 23, 2010, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On February 23, 2010, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Standing Order entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The petition filed by the Debtors proposes a monthly plan payment of \$1,957.00 for a period of 60 months. There is no proposed dividend to unsecured creditors.
5. The Standing Trustee received correspondence on May 3, 2010 from New York Dept. of Taxation and Finance ("NY Tax") asserting that the male Debtor has failed to file a return for tax years 2005, 2006, 2007 and 2008 as required by 11 U.S.C. §1308; however, the Debtors testified at their creditor's meeting that they had filed all tax returns for the last four years.
6. The Trustee objects to confirmation of the Debtors' plan pursuant to 11 U.S.C. §1325(a)(9) in that NY Tax has apparently failed to receive all applicable tax returns required under 11 U.S.C. §1308. The Trustee requests a hearing for a determination of whether the Debtors have filed all required returns for 2005, 2006, 2007 and 2008.

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtors' plan not be confirmed in that the plan does not comply with the provisions of the Bankruptcy Code, specifically 11 U.S.C. §1325(a)(9), and the case be dismissed for cause pursuant to 11 U.S.C. §1307;
2. For such other and further relief as the Court may deem just or proper.

This the 17th day of May, 2010.

s/Benjamin E. Lovell

Benjamin E. Lovell

Attorney for the Trustee

State Bar No: 23266

P.O. Box 3613

Durham, N.C. 27702

Telephone: (919) 688-8065

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Roger & Hattie Owens, 4 Savi Ct., Durham, NC 27713, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 17th day of May, 2010.

s/Benjamin E. Lovell

Benjamin E. Lovell, Esq.

Attorney for the Standing Trustee